

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed June 28, 2006 ("Office Action"). At the time of the Office Action, Claims 1-28 were pending in the Application. In the Office Action, the Examiner rejects Claims 1-28. Applicant amends Claims 1, 8, 13, 14, and 18. As described below, Applicant believes all claims to be allowable over the cited references. Therefore, Applicant respectfully requests reconsideration and full allowance of all pending claims.

Section 112 Rejections

The Examiner rejects Claims 1, 13, 14, and 18 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner states that the specification, as originally filed, fails to provide support for "using the first table to create a second table." Although Applicant disagrees with the Examiner's conclusion that the above-recited claim language is not supported by the specification, Applicant has removed the language identified by the Examiner. Applicant respectfully requests that the rejection of Claims 1, 13, 14, and 18 under 35 U.S.C. § 112, first paragraph be withdrawn.

Section 103 Rejections

The Examiner rejects Claims 1-12, 14-17, and 22-28 under 35 U.S.C. § 103(a) as being unpatentable over C.M.R. Leung "An object-oriented approach to directory systems," - 1990 ("*Leung*") in view of Hong et al. "Design and Implementation of a Distributed Applications Testbed" - 1993 ("*Hong*"). The Examiner rejects Claims 13 and 18-21 under 35 U.S.C. § 103(a) as being unpatentable over *Leung* in view of *Hong* as applied to Claims 1-12, 14-17, and 22-28 above, and further in view of M.A. Bauer et al. "A simulation Model of X.500 Directories Initial Experiences" - 1991 ("*Bauer*"). Applicant respectfully traverses these rejections for the reasons stated below.

A. The Claims are Allowable

1. Claims 1-7, 14-17, and 22-28 are Allowable over the proposed *Leung-Hong* Combination

Independent Claim 1 of the present application, as amended, recites:

A method of arranging data in a database comprising:
creating a first table adapted for storing data comprising at least one data entry, the data entry comprising a plurality of data components, the first table comprising one row for each data entry;
and
creating a second table storing the plurality of data components of the data entry of the first table, the second table comprising one row for each of the plurality of data components of the data entry of the first table.

Applicant respectfully submits that the proposed *Leung-Hong* combination does not disclose, teach, or suggest each and every element of Applicant's Claim 1.

In the previous Response to Office Action submitted on April 6, 2006, Applicant argued that the proposed *Leung-Hong* combination does not disclose, teach, or suggest "creating a second table storing the plurality of data components of the data entry of the first table, the second table comprising one row for each of the plurality of data components of the data entry of the first table," as recited in Applicant's Claim 1. More specifically, Applicant argued that *Hong*, as relied upon by the Examiner, fails to disclose, teach, or suggest "creating a second table storing the plurality of data components of the data entry of the first table, the second table comprising one row for each of the plurality of data components of the data entry of the first table," as recited in Applicant's Claim 1.

In the Final Office Action, the Examiner continues to rely on *Hong* for disclosure of the above-recited claim language of Claim 1. In response to Applicants' arguments made in the Response to Office Action mailed on April 6, 2006, the Examiner states in Section B of the Final Office Action:

In response to applicant's argument, page 8, paragraph 2, the proposed Leung-Hong combination does not disclose, teach, or suggest "using the first table to create a second table adapted for storing the plurality of data components of the entry of the first table, the second table comprising one row for each of the plurality of data entry of the first table," as recited in Claim 1. As indicated in the rejection (see section A), the combination Leung in view of Hong discloses the claimed limitations.

Applicant(s) stated, page 8, paragraph 2, In the Office action, the Examiner that Leung fails to disclose "a second table adapted for storing data components and having one row for each component of data." The Office action clearly stated that: Leung fails to explicitly disclose a second table adapted for storing data components and having one row for each component of the data. However, Hong discloses creating a second table adapted for storing data components and having one row for each component of the data (see Hong page 172, col. 2, paragraph 3.2). It would have been obvious to one ordinary skill in the art at the time the invention was made to modify of Leung by creating a second table adapted for storing data components and having one row for each component of the data as disclosed by Hong (see Hong page 172, col. 2, paragraph 3.2). Such a modification would allow the method of Leung to provide increase reliability and performance of the directory searching methods and systems (see Hong page 170, col. 1, paragraph introduction), thereby improving the accuracy of the directories searching methods and systems.

(Final Office Action, pages 8-9). Although it appears in this rather lengthy section that the Examiner has attempted to respond to Applicant's arguments, the Examiner has merely reproduced the Examiner's previous rejection of Applicant's claims. It is, in fact, very nearly a cut and paste of the Examiner's rejection of the claims in Section A of the Final Office Action (and the rejection before it in the Office Action mailed January 26, 2006). The Examiner has not responded to Applicant's arguments disputing the Examiner's contention that *Hong* and, thus, the *Leung-Hong* combination fails to disclose, teach, or suggest Applicant's step of "creating a second table storing the plurality of data components of the data entry of the first table, the second table comprising one row for each of the plurality of data components of the data entry of the first table," as recited in Applicant's Claim 1.

Section 707.07(f) of the M.P.E.P. requires an Examiner to answer all material traversed by an Applicant. Specifically, that provision states:

Where the applicant traverses any rejection, the examiner should if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

(M.P.E.P. § 707.07(f)). Because the Examiner has failed to respond to Applicant's arguments disputing that *Hong* discloses, teaches, or suggest Applicants' steps of "creating a second table storing the plurality of data components of the data entry of the first table, the second table comprising one row for each of the plurality of data components of the data entry of the first table," as recited in Applicant's Claim 1, Applicant submits that the Office Action is deficient on its face.

Further, because Applicant believes that Applicant's previous arguments relating the failure of *Hong* continue to have merit, Applicant reiterates the previous arguments and expands them now. Specifically, Applicant contends that *Hong* merely discloses a "distributed applications testbed for the experimental study of problems related to X.500 distributed directories." (Abstract). *Hong* provides background information relating to the X.500 Directory Service. Specifically, *Hong* states that according to the X.500 Directory Service the "information held by the Directory is called the Directory Information Base (DIB) . . . [and] consists of entries (or objects) which contain information about entities." (Page 172, Section 3.1, lines 7-10). "Entities in the DIB are represented by entries in a global, hierarchical name space called the Directory Information Tree (DIT). Entries are placed in the DIT according to the organizational relationships between the entities which they represent." (Page 172, Section 3.1, lines 16-20). Thus, the background information provided by *Hong* merely relates to the organization of the entries of the DIB within the structure of the DIT.

The portion of *Hong* cited by the Examiner proposes a X.500 testbed that allows "different directory service requests to be sent to [Directory System Agents (DSAs)]"

responsible for a portion of the DIT. (Page 172, Section 3.2, paragraph 3). Specifically, that portion states:

The DIT is, in general, divided into partitions among the DSAs in a directory domain (for example, within a country or an organization). There are many ways a DIT can be partitioned. Thus, in an experimental testbed, it is desirable that one can easily partition the DIT in a number of ways and assign each partition to a DSA. Directly related to DIT partitioning is the entry data that will go into each DSA's DIB. One should be able to arbitrarily generate the entry data and store them in individual DIBs. One should also be able to control the amount of data stored in each DIB.

(Page 172, Section 3.2, lines 18-29). Thus, *Hong* merely discloses partitioning the data entries in the DIT into individual DIBs that are then assigned to DSAs. *Hong* does not disclose, teach, or suggest "creating a second table storing the plurality of data components of the data entry of the first table, **the second table comprising one row for each of the plurality of data components of the data entry of the first table,**" as recited in Applicant's Claim 1. These elements are absent from *Hong*.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claim 1, together with Claims 2-7 that depend from Claim 1.

Independent Claim 14 and 22 recite certain limitations that are similar to the features discussed above with regard to Claim 1. As an example, Claim 14 recites "a second table storing the plurality of data components of the data entry of the first table, the second table comprising one row for each of the plurality of data components of the data entry of the first table." As another example, Claim 22 recites "the given data entry of the first table comprising a plurality of data components" and "the second table comprising one row for each of the plurality of data components of the given data entry of the first table." Thus, for reasons similar to those discussed above with regard to Claim 1, Applicant respectfully submits that Claims 14 and 22 are allowable over the proposed *Leung-Hong* combination.

As an additional distinction, Applicant respectfully submits that the proposed *Leung-Hong* combination does not disclose, teach, or suggest “identifying a component identifier indicating a data type that is associated with the component of the first table” and “using the component identifier indicating the data type to execute one of an exact or initial matching on a column of a second table in order to locate the component in the second table,” as recited in Claim 22. As discussed above, *Leung* discloses that each record of the DIT and ENTRY tables depicted in Figure 4b includes the system identifier of an object (i.e., “Entry-ID”). (Page 88, lines 15-18 and Figure 4b). As a result, corresponding records in the DIT and ENTRY tables may be identified by a common Entry-ID. Applicant continues to submit, however, that the Entry-ID of *Leung* is not the equivalent of Applicant’s claimed “component identifier.” *Leung* only discloses that the Entry-ID is a system identifier of an object. There is no indication in *Leung* that the Entry-ID “[indicates] a data type that is associated with the component of the first table” and that it may be used to “execute one of an exact or initial matching on a column of a second table in order to locate the component in the second table,” as recited in Applicant’s Claim 22.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 14 and 22, together with Claims 15-17 and 23-28, which depend from Claims 14 and 22, respectively.

2. Claims 8-12 are Allowable over the proposed *Leung-Hong* Combination

Independent Claim 8 of the present application, as amended, recites:

A database having a data storage arrangement comprising:
a search table comprising at least one row having a plurality of columns, each column of the at least one row storing a data component; and
a subsearch table comprising one row for each data component of the at least one row of the search table, each row

having a plurality of columns including a component identifier column configured to be used as a search index for searching data components in the at least one row of the search table.

Applicant respectfully submits that the proposed *Leung-Hong* combination does not disclose, teach, or suggest each and every element of Applicant's Claim 8.

In the previous Response to Office Action submitted on April 6, 2006, Applicant questioned the Examiner's reliance on *Leung* for disclosure of the recited features since the Examiner specifically acknowledges the failure of *Leung* to disclose certain analogous features recited in Claim 1. In the Final Office Action, the Examiner's rejection of Claim 8 is unchanged. Thus, the Examiner continues to rely upon *Leung* for disclosure of the subsearch table "comprising one row for each data component of the search table" and specifically points to Page 739, col. 1, paragraph 1 of *Leung*. (Final Office Action, page 5). The Examiner merely relies on *Hong* for disclosure of the component identifier column and related operations. (Final Office Action, page 5). In Section B of the Final Office Action, the Examiner's response to Applicant's arguments focuses on the claim language of Claim 1 and does not address directly Applicant's arguments relating to Claim 8. Nevertheless, the Examiner characterizes the previous Office Action as "clearly stat[ing] that: *Leung* fails to explicitly disclose a second table adapted for storing data components and having one row for each component of the data. (Final Office Action, page 9).

Again, the Examiner's rejection of Claim 8 seems to be inconsistent with the Examiner's rejection of analogous features recited in Claim 1. Applicant continues to be confused as to the true basis of the Examiner's rejection of Claim 8 and specifically to the basis of the Examiner's rejection of Applicant's "subsearch table comprising one row for each data component of the at least one row of the search table," as recited in Claim 8. To the extent that the Examiner is relying on *Leung*, which Applicant does not believe to be the Examiner's intent, Applicant disagrees that *Leung* disclose the recited features. Figure 6 illustrates the "optimal relational database schema" and includes a DIT table and

an ENTRY table. (*Leung*, page 738, column 2, paragraph 2, lines 12-15). Although *Leung* discloses “two relational tables” (Figure 6; Page 739, column 1, lines 1-2), the DIT and ENTRY tables are not analogous to Applicants’ first and second tables, respectively.

Leung specifically discloses that the DIT table “holds the information of the structure of the DIT.” (*Leung*, page 739, column 1, lines 3-4). “Each record contains the system identifier of an object, that of its parent, and its RDN.” (*Leung*, page 739, column 1, lines 4-5). Thus, the “ENTRY ID” of the DIT table illustrated in Figure 6 is merely a system identifier of an object, and each row of the DIT table includes a record for each object within the DIB. Further, according to the “Relational Database schema” presented by Figure 6 of *Leung*, the ENTRY table “holds detailed information about each directory object.” (*Leung*, page 739, column 1, lines 9-10). More specifically, “[e]ach record holds the system identifier of an object and an attribute value of an attribute type of the object in both normalized and raw forms.” (*Leung*, page 739, column 1, lines 11-13). Thus, like the DIT table, the ENTRY table of Figure 6 also includes a record for each object within the DIB. (*Leung*, page 88, lines 17-19 and Figure 4b). From the description of *Leung*, it is evident that every object has an associated row in the DIT table and in the ENTRY table. *Leung* does not indicate, however, that for each data component in a row of the DIT table there will be a corresponding row in the ENTRY table. As such, the directory implementation of *Leung* does not disclose, teach, or suggest “a subsearch table comprising one row for each data component of the at least one row of the search table,” as recited in Claim 8.

To the extent that the Examiner is relying on *Hong* for disclosure of the recited features, Applicant disagrees that *Hong* disclose the recited features. As discussed above with regard to Claim 1, *Hong* merely relates to the organization of the entries of the DIB within the structure of the DIT. Specifically, the X.500 Directory testbed of *Hong* allows “different directory service requests to be sent to [Directory System Agents (DSAs)]” responsible for a portion of the DIT. (Page 172, Section 3.2, paragraph 3). Thus, the DIT is “divided into partitions among the DSAs in a directory domain (for example,

within a country or an organization.” (Page 172, Section 3.2, paragraph 2). As a result of this partitioning, “entry data that will go into each DSA’s DIB” is stored “in individual DIBs.” (Page 172, Section 3.2, paragraph 3). Applicant respectfully submits that the partitioned data entries in the DIT, as disclosed in *Hong*, are not analogous to “a subsearch table comprising one row for each data component of the at least one row of the search table,” as recited in Claim 8.

Finally, Applicant respectfully submits that, in the Final Office Action, the Examiner has failed to address Applicant’s arguments with respect to the proposed *Leung-Hong* combination’s failure to disclose, teach, or suggest a subsearch table comprising one row for each data component of the at least one row of the search table,” as recited in Claim 8. Rather, as discussed above, the Examiner merely reproduces his rejection relating to the claim language of Claim 1. Because the Examiner has failed to respond to Applicant’s arguments disputing that the proposed *Leung-Hong* combination’s failure to disclose, teach, or suggest a subsearch table comprising one row for each data component of the at least one row of the search table,” as recited in Claim 8, Applicant submits that the Office Action is deficient on its face.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claim 8, together with Claims 9-12 that depend from Claim 8.

3. Claims 13 and 18-21 are Allowable over the proposed *Leung-Hong-Bauer* Combination

Independent Claim 13 of the present application, as amended, recites:

A database having a data storage arrangement comprising:
a first table directed to a hierarchy which defines a relationship between a plurality of objects and configured to have one row per object;
a second table directed to the plurality of objects of the first table, the second table defining one or more values within each of the plurality of objects of the first table and configured to have one row per value; and
a third table directed to one or more selected components of the one or more values of the second table and configured to have one row for each component of each of the one or more values of the second table.

Applicant respectfully submits that the *Leung-Hong-Bauer* combination does not disclose, teach, or suggest each and every element of Applicant's Claim 13.

For example, Applicant respectfully submits that the *Leung-Hong-Bauer* combination does not disclose, teach, or suggest "a second table created from the first table and directed to the plurality of objects of the first table, the second table defining one or more values within each of the plurality of objects of the first table and configured to have one row per value," as recited in Applicant's Claim 13. Certain of the features in the recited claim language is analogous to features discussed above with regard to Claim 1. Accordingly, for reasons similar to those discussed above with regard to Claim 1, Applicant respectfully submits that the proposed *Leung-Hong-Bauer* combination does not disclose, teach, or suggest "a second table created from the first table and directed to the plurality of objects of the first table, the second table defining one or more values within each of the plurality of objects of the first table and configured to have one row per value," as recited in Applicant's Claim 13.

Additionally, Applicant respectfully submits that the *Leung-Hong-Bauer* combination does not disclose, teach, or suggest “a third table directed to one or more selected components of the one or more values of the second table and configured to have one row for each component of each of the one or more values of the second table,” as recited in Applicant’s Claim 13. In the Office Action, the Examiner acknowledges that *Leung* fails to explicitly disclose a third table. (Office Action, page 7). Instead, the Examiner relies on *Bauer* for disclosure of the above-recited features. Like *Hong*, *Bauer* merely relates, however, to a “testbed to be used in investigating the behavior of X.500 directories in large distributed environments.” (Abstract). More specifically, *Bauer* “reports on initial results of a simulation of an X.500 distributed environment, as well as on the methodology and on experiences with the tools and techniques used.” (Page 256, Section 1, paragraph 2). In all, “18 experiments were run, each for a simulated time period of 4 hours.” (Page 265, Section 4, paragraph 1). *Bauer* summarizes the results of the 18 experiments in Tables 3 to 8 on pages 265-271. Information in the tables includes the average number of requests processed by the DSAs, the standard deviation of the number of requests, the average size of the request queue, the standard deviation of the request queue, the maximum size of the request queue, and the minimum size of the request queue. (Page 265, Section 4). None of the illustrated tables, however, relate to “a third table directed to one or more selected components of the one or more values of the second table and configured to have one row for each component of each of the one or more values of the second table,” as recited in Applicant’s Claim 13.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claim 13.

Independent Claim 18 recites certain limitations that are similar to the features discussed above with regard to Claim 13. As an example, Claim 18 recites “a second table directed to the plurality of objects of the first table, the second table defining one or more values within each of the plurality of objects of the first table and configured to have one row per value.” As another example, Claim 18 recites “a third table directed to one or

more selected components of the one or more values of the second table and configured to have one row for each component of each of the one or more values of the second table." Thus, for reasons similar to those discussed above with regard to Claim 13, Applicant respectfully submits that Claim 18 is allowable over the proposed *Leung-Hong-Bauer* combination.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claim 18, together with Claims 19-21 which depend from Claim 18.

B. The Proposed Combinations are Improper

The M.P.E.P. sets forth the strict legal standard for establishing a *prima facie* case of obviousness based on modification or combination of prior art references. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references where combined) must teach or suggest all the claim limitations." M.P.E.P. § 2142, 2143. The teaching, suggestion or motivation for the modification or combination and the reasonable expectation of success must both be found in the prior art and cannot be based on an Applicant's disclosure. *See Id.* (citations omitted). "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art" at the time of the invention. M.P.E.P. § 2143.01. Even the fact that references *can* be modified or combined does not render the resultant modification or combination obvious unless the prior art teaches or suggests the desirability of the modification or combination. *See Id.* (citations omitted).

The governing Federal Circuit case law makes this strict legal standard even more clear.¹ According to the Federal Circuit, “a showing of a suggestion, teaching, or motivation to combine or modify prior art references is an essential component of an obviousness holding.” *In re Sang-Su Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433 (Fed. Cir. 2002) (quoting *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 U.S.P.Q.2d 1456, 1459 (Fed. Cir. 2000)). “Evidence of a suggestion, teaching, or motivation . . . may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, the nature of the problem to be solved.” *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). However, the “range of sources available . . . does not diminish the requirement for actual evidence.” *Id.* Even a determination that it would have been obvious to one of ordinary skill in the art at the time of the invention to try the proposed modification or combination is not sufficient to establish a *prima facie* case of obviousness. See *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988).

In addition, the M.P.E.P. and the Federal Circuit repeatedly warn against using an applicant’s disclosure as a blueprint to reconstruct the claimed invention. For example, the M.P.E.P. states, “The tendency to resort to ‘hindsight’ based upon applicant’s disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.” M.P.E.P. § 2142. The governing Federal Circuit cases are equally clear. “A critical step in analyzing the patentability of claims pursuant to [35 U.S.C. § 103] is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. . . . Close adherence to this methodology is especially important in cases where the very ease with which the invention

¹ Note M.P.E.P. 2145 X.C. (“The Federal Circuit has produced a number of decisions overturning obviousness rejections due to a lack of suggestion in the prior art of the desirability of combining references.”).

can be understood may prompt one ‘to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher.’” *In re Kotzab*, 217 F.3d 1365, 1369, 55 U.S.P.Q.2d 1313, 1316 (Fed. Cir. 2000) (citations omitted). In *In re Kotzab*, the Federal Circuit noted that to prevent the use of hindsight based on the invention to defeat patentability of the invention, the court requires the Examiner to show a motivation to combine the references that create the case of obviousness. *See id.* *See also, e.g., Grain Processing Corp. v. American Maize-Products*, 840 F.2d 902, 907, 5 U.S.P.Q.2d 1788, 1792 (Fed. Cir. 1988). Similarly, in *In re Dembiczak*, the Federal Circuit reversed a finding of obviousness by the Board, explaining that the required evidence of such a teaching, suggestion, or motivation is essential to avoid impermissible hindsight reconstruction of an applicant’s invention:

Our case law makes clear that the best defense against the subtle but powerful attraction of hind-sight obviousness analysis is *rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references*. Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight.

175 F.3d at 999, 50 U.S.P.Q.2d at 1617 (emphasis added) (citations omitted).

In the Final Office Action, the Examiner acknowledges, with regard to Claim 1, that *Leung* does not disclose creating a second table. (Office Action, page 3). In maintaining the rejection, the Examiner speculates that “[i]t would have been obvious to one [of] ordinary skill in the art at the time the invention was made to modify *Leung* with creating a second table . . . adapted for storing data components and having one row for each component of the data . . . to increased reliability and performance of the directory searching methods and systems . . . thereby improving the accuracy of the directories searching methods and systems.” (Final Office Action, page 4, citing *Hong* page 170, col. 1, paragraph introduction). With respect to Claims 13 and 18, the Examiner also speculates that “[i]t would have been obvious to one [of] ordinary skill in the art at the time the invention was made to modify *Leung* with a third table directed to one or more

selected components of the one or more values of the second table . . . to provide directory services in a distributed system environment and to evaluate changes to the standard.” (Office Action, page 7, citing *Bauer*, page 265, col. 2, paragraph 4).

Again, it appears that the Examiner has merely proposed alleged advantages of combining *Leung* with *Hong* and *Bauer* (advantages which Applicant does not admit could even be achieved by combining these references in the manner the Examiner proposes). While the Examiner has cited portions of *Hong* and *Bauer* that tout advantages of their respective techniques, the Examiner has not pointed to any portions of the cited references that would teach, suggest, or motivate one of ordinary skill in the art at the time of invention to incorporate the features of the respective *Hong* and *Bauer* techniques into the object-oriented database disclosed in *Leung*. In other words, the alleged advantage of the system disclosed in *Hong* does not provide an explanation as to: (1) why it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention (*without using Applicant’s claims as a guide*) to modify the particular techniques disclosed in *Leung* with the cited disclosures of *Hong* and *Bauer*; (2) how one of ordinary skill in the art at the time of Applicant’s invention would have actually done so; and (3) how doing so would purportedly meet the limitations of Applicant’s claims.

Indeed, if it were sufficient for Examiners to merely point to a purported advantage of one reference and conclude that it would have been obvious to combine or modify that reference with other references simply based on that advantage (which, as should be evident from the case law discussed above, it certainly is not), then virtually any two or more references would be combinable just based on the fact the one reference states an advantage of its system. Of course, as the Federal Circuit has made clear and as discussed above, that is not the law. Accordingly, Applicant respectfully submits that the Examiner’s conclusions set forth in the Office Action do not meet the requirements set forth in the M.P.E.P. and the governing Federal Circuit case law for demonstrating a *prima facie* case of obviousness.

Furthermore, it is improper for an Examiner to use hindsight having read the Applicant's disclosure to arrive at an obviousness rejection. *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). It is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). It is clear based at least on the many distinctions discussed above that the proposed combinations do not, taken as a whole, suggest the claimed invention, taken as a whole. Rather, Appellants respectfully submit that the Examiner has merely pieced together disjointed portions of references, with the benefit of hindsight using Appellants' claims as a blueprint, in an attempt to reconstruct Appellants' claims.

For at least these reasons, Applicant submits that the rejection of Claims 1-28 is improper. Applicant respectfully requests reconsideration and allowance of Claims 1-28.

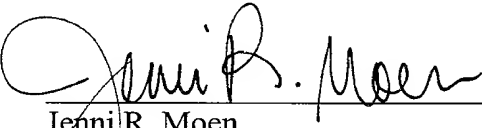
CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorney for Applicant, at the Examiner's convenience at (214) 953-6809.

Applicant believes that no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant


Jenni R. Moen
Reg. No. 52,038

Date: August 28, 2006

Correspondence Address:

at Customer No. **05073**